

Notice of Allowability

Application No.

10/601,600

Examiner

Ardith E. Hertzog

Applicant(s)

LABRANA VALDIVIA ET AL.

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1754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the RCE & all accompanying papers filed 11/23/2005.
2. ☒ The allowed claim(s) is/are 50-69, now numbered 1, 16, 12, 13, 6-8, 18, 19, 14, 15, 17, 9, 20, 10, 11 and 2-5, respectively.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☒ to Paper No./Mail Date 5/23/2005.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


STANLEY S. SILVERMAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

REASONS FOR ALLOWANCE

1. A request for continued examination (RCE) under 37 CFR § 1.114, including the fee set forth in 37 CFR § 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR § 1.114, and the fee set forth in 37 CFR § 1.17(e) has been timely paid, the finality of the previous Office action has been **withdrawn**, pursuant to 37 CFR § 1.114. Applicant's submission filed on November 23, 2005 has been **entered**.

2. The following is an examiner's statement of reasons for allowance: Applicant's arguments concerning the prior art rejections based upon Perez Garcia (US 6,875,413), as set forth in the final rejection (i.e., the prior Office action mailed May 23, 2005) have been carefully considered and, **with respect to the claims as amended with the RCE**, found **persuasive**. In particular, it is **agreed** that:

[While] Perez Garcia also relates to a process for producing sulfur dioxide from sulfur and pure oxygen,... **there is no disclosure of controlling the temperature of their combustion by automatically controlling a defined ratio of S, O₂ and SO₂ with flow sensors for the flows of sulfur, oxygen, return oxygen, and return SO₂ and oxygen to the chamber [(i.e., per the new instant independent claim 50)].**

[and]

Perez Garcia does not describe a similar method for controlling the temperature with flow sensors that measure and control the ratio of the ingredients fed to the combustion chamber. Rather, **it merely describes cooling recirculated combustive gas "to maintain combustion at less than 1200°C."** (remarks accompanying RCE amendment at pp. 8-9, emphasis added)

Thus, Perez Garcia no longer anticipates any instant claims, with the corresponding 35

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U.S.C. § 102(e) rejection, as set forth in the final rejection, having been **rendered moot**.

Furthermore, it is **also** agreed that:

Nor is it believed that any of [instant] claims 50-69 should be considered obvious over Perez Garcia either because there is no disclosure of controlling the combustion temperature by automatically controlling a defined ratio of S, O₂ and SO₂ fed to the chamber. Rather, as noted, temperature is merely controlled in Perez Garcia by cooling combustion gas that is returned to the chamber. **Any suggestion that the temperature be controlled by maintaining a defined ratio of S, O₂ and SO₂ is hindsight based on a reading of applicants' specification.** (remarks accompanying RCE amendment at pp. 8-9, emphasis added)

Thus, as it is agreed that Perez Garcia—the closest prior art of record—cannot be considered to have rendered any of applicant's claims, **as now amended**, *prima facie* obvious, **absent improper hindsight use of applicant's disclosure**, all claims are now considered allowable over the prior art of record.

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".

Conclusion

4. Any inquiry concerning this communication or any earlier communications from the examiner should be directed to Ardith E. Hertzog at 571-272-1347. The examiner can normally be reached on Monday through Friday (from about 7:30 a.m. - 3:30 p.m.).

5. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley S. Silverman, can be reached at 571-272-1358. The central fax

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number for all communications is now 571-273-8300.

6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. For any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


AEH
December 5, 2005


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